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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/740,965      | 12/21/2000  | John Robert Davies   | PT-1673004          | 7407             |

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IVOR M. HUGHES, BARRISTER & SOLICITOR,  
PATENT & TRADEMARK AGENTS  
175 COMMERCE VALLEY DRIVE WEST  
SUITE 200  
THORNHILL, ON L3T 7P6  
CANADA

EXAMINER

REDMAN, JERRY E

ART UNIT

PAPER NUMBER

3634

DATE MAILED: 04/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/740,965

Applicant(s)

DAVIES ET AL.

Examiner

Jerry Redman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2004.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 10 and 16 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1, 2, 10, and 16 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 10, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kramer in view of Warnick. Kramer discloses a closure assembly mounted within an opening comprising a jamb (120) having an interior and a jamb pocket (124), a retractable screen (104, Webster's New world College Dictionary, 3<sup>rd</sup> edition, defines screen as "anything that functions to shield, protect, or conceal like a curtain") contained within the jamb pocket (124), a latch (118) having a handle, a latch receptacle (116), and top and bottom tracks (106 and 108) which guide the screen between open and closed positions. With respect to claims 1, 2, and 10, Kramer fails to disclose a closure assembly to be mounted within a window opening and the screen being spring biased and with respect to claim 16, Kramer fails to disclose a screen being spring biased. Warnick discloses a spring biased (it's inherent that the screen is spring biased since the screen is retractable within a header that has no other openings other than the slots that the screen and shade retract therefrom) retractable closure assembly mounted within a window. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the closure assembly of Kramer to be mounted within a window opening as taught by Warnick since openings within a house are art equivalent and would have been obvious to mount movable screen within any opening of a house thereby preventing bugs and insects from entering the house and

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still provide ventilation through the opening and would have been further obvious to one of ordinary skill in the art at the time of the invention to provide the screen of Kramer to be spring biased as taught by Warnick since a spring biased screen allows the screen to be automatically wound back onto itself in a stored position.

The applicant's arguments have been considered but are not deemed to be persuasive. It appears that the applicant's arguments are more limiting than that of the claims. The applicant argues a "screen mesh" but he claims merely recite a "screen" in which the Examiner has broadly defined in detail above. The applicant further argues that the art of record fails to define how the apparatus is formed. Since the applicant is claiming the apparatus and NOT a method of how the apparatus is formed, no patentable weight is given to "how" the apparatus is formed. Broadly shown by Kramer, the apparatus is formed with the frame as clearly shown in the Figures.


Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication should be directed to Jerry Redman at telephone number 703-308-2120.



**Jerry Redman**  
**Primary Examiner**